

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ADRIAN SWANSON, JR.,

Plaintiff

v.

N.D.O.C., *et al.*,

Defendants.

Case No. 2:20-cv-01799-GMN-EJY

ORDER

I. DISCUSSION

On September 28, 2020, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983. (ECF No. 1-1). Plaintiff has neither paid the \$400 filing fee for this matter, nor has he filed an application to proceed *in forma pauperis*.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to commence a civil action may apply to proceed *in forma pauperis*, which allows the inmate to file the civil action without prepaying the full \$400 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, on this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and
- (3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

The Court grants Plaintiff a **one-time** extension to file a complete application to proceed *in forma pauperis* containing all three of the required documents or, in the alternative, pay the \$400 filing fee for this action on or before **December 7, 2020**. Absent unusual circumstances, the Court will not grant any further extensions of time.

1 If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis* with all
 2 three required documents or pay the full \$400 filing fee on or before **December 7, 2020**, the Court
 3 will dismiss this case without prejudice for Plaintiff to file a new case with the Court when Plaintiff
 4 is either able to file a fully complete application to proceed *in forma pauperis* or pay the \$400 filing
 5 fee.

6 A dismissal without prejudice means Plaintiff does not give up the right to refile the case
 7 with the Court, under a new case number, when Plaintiff has all three documents needed to submit
 8 with an application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an
 9 application to proceed *in forma pauperis* and instead pay the filing fee of \$400 on or before
 10 **December 7, 2020** to proceed with this case.

11 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court will not
 12 file the complaint unless and until Plaintiff timely files a complete application to proceed *in forma*
 13 *pauperis* with all three documents or pays the \$400 filing fee.

14 **II. CONCLUSION**

15 For the foregoing reasons, IT IS HEREBY ORDERED that the Clerk of the Court shall send
 16 Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well as the
 17 document entitled information and instructions for filing an *in forma pauperis* application.

18 IT IS FURTHER ORDERED that on or before **December 7, 2020**, Plaintiff shall either pay
 19 the \$400 filing fee for a civil action (which includes the \$350 filing fee and the \$50 administrative
 20 fee) or file with the Court:

21 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's
 22 approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page
 23 3),

24 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
 25 (i.e. page 4 of this Court's approved form), and

26 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
 27 **six-month period.**

1 IT IS FURTHER ORDERED that, if Plaintiff does not file a complete application to proceed
2 *in forma pauperis* with all three documents or pay the \$400 filing fee for a civil action on or before
3 **December 7, 2020**, the Court will dismiss this action without prejudice for Plaintiff to refile the case
4 with the Court, under a new case number, when Plaintiff is able to submit an *in forma pauperis*
5 application or pay the filing fee.

6 IT IS FURTHER ORDERED that the Clerk of the Court shall retain the complaint (ECF
7 No.1-1) but will not file it at this time.

8 Dated this 7th day of October, 2020

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10 ELAYNA J. YOUCHAK
11 UNITED STATES MAGISTRATE JUDGE
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